IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 876 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DIST PANCHAYAT

Versus

ARVINDKUMAR T CHAUHAN

Appearance:

1. Special Civil Application No. 876 of 1989

MR PV HATHI for Petitioners No. 1-2

MR DG CHAUHAN for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 27/02/2002

ORAL JUDGEMENT

Heard Mr.P.V.Hathi, learned advocate appearing on behalf of the petitioner and Mr.D.G.Chauhan, learned advcoate for respondent workman.

In the present petition, the petitioner has challenged the order passed by the Labour Court, Rajkot in Reference [LCR] No.174/1983 dated 20th March, 1984, wherein the Labour Court has granted reinstatement with continuity of service and full backwages of interim period. This being exparte award passed by the Labour Court, the petitioner has filed Misc. Application No.38 / 1984 before the Labour Court concerned but said application was also rejected by the Labour Court by order dated 4th March, 1985. Thereafter, the respondent workman has filed Recovery Application No.461 / 1984 under Section 33-C[1] of the Industrial Disputes Act, 1947, wherein the Labour Court has passed order on 29th May, 1988 grated recoverable amount of Rs.10,038/- in favour of the respondent workman. Similarly, the respondent workman has also filed another Recovery Application being Recovery Application No.455/86 under Section 33-C[2] of the Act, wherein the Labour Court the has passed order on 8th March, 1988 granting an amount of Rs.21,227=26 ps. in favour of the respondent workman. All these orders are under challenge in this petition.

#. Initially, this Court has issued RULE and granted ad-interim relief in terms of para-13[D] on condition that the petitioner shall deposit on account in the Court an amount of Rs.15,000/- within period of two weeks from the date of the order. According to the statement made by Mr.Hathi, learned advocate for petitioner, said amount of Rs.15,000/- has been deposited by the petitioner and thereafter, the respondent workman has withdrawn the said amount from the Court. The respondent workman has filed affidavit-in-reply and the petitioner has also filed Rejoinder against said reply.

#. Mr.D.G.Chauhan, learned advocate for respondent workman has fairly submitted that the respondent workman has received Rs.15,000/- from the petitioner which was deposited before this Court and the respondent workman considers it to the full satisfaction of orders passed in Recovery Application Nos.461/84 and 455/86 by the Labour Court and now nothing remains to be recovered by the respondent workman from the petitioner. However, Mr.Chauhan submitted that though there was no order passed by the Labour Court, Rajkot granting reinstatement in favour of the respondent workman but his submission before this Court is that the petitioner has not reinstated the respondent workman. As against this submission, Mr.Hathi, learned advocate has submitted that in pursuance of the award passed by the Labour Court, Rajkot, the respondent workman was asked to report for duty at Jamkalayanpur and relieved to resume duty on 13th

December, 1985. It is further submitted that thereafter also, the respondent workman has been transferred by order dated 13th June, 1986. By letter dated 12th November, 1986 addressed by the respondent workman by the petitioner, it was pointed out by the respondent workman has remained present for 16 days and thereafter, without obtaining prior permission, the respondent workman remained absent and consequently, some explanation was called for from the respondent workman.

#. Considering the facts and situation stated above, now the situation arises before this Court that the respondent workman has fairly agreed not to claim any amount from the petitioner and when the respondent workman is satisfied with the amount of Rs.15,000/- which has been withdrawn by the respondent workman from this Court, the request of the respondent workman to consider his case for reinstatement in job as reemployment by the petitioner. However, Learned advcoate Mr.P.V.Hathi has submitted that for such request, the respondent workman has to approach the petitioner with request to reinstate him in service on fresh appointment. It is also submitted by Mr.Hathi that in such event if the respondent approaches the petitioner with such request, the petitioner will definitely consider the case of the respondent workman for reinstatement in service on fresh employment basis.

#. Having regards to the aforesaid submissions of the learned advocates for the parties, according to my opinion, considering the entire record of the petition as well as the award passed by the Labour Court, as also the affidavit-in-reply, rejoinder which are on record and the fair stand taken by the respondent workman for not claiming any amount from the petitioner, some recommendations to the petitioner to consider the case of the respondent workman to take him back in service on fresh employment, will meet the ends of justice. Therefore, it is recommended to the petitioner to consider the case of the respondent workman for fresh reemployment in service because he was earlier working with the petitioner with effect from 25th July, 1979 and moreover, considering the entire service record, no allegations are made out against the respondent workman. It is also recommended to the petitioner to consider the case of the respondent workman with sympathetic approach and to pass appropriate orders in respect of fresh employment within period of one month from the date of receiving the copy of this order.

In view of above observations and directions,

present petition is disposed of accordingly. Rule discharged accordingly. Ad-interim relief, if any, stands vacated. No order as to costs.

Direct Service is permitted to the parties.

Date : 27-2-2002 [H.K.Rathod, J.]

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